APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,985	06/26/2003	Michael J. Osias	END920030007US1	6433

23550　　7590　　10/03/2007		EXAMINER
HOFFMAN WARNICK & D'ALESSANDRO, LLC		NGUYEN, THUONG
75 STATE STREET		
14TH FLOOR	ART UNIT	PAPER NUMBER
ALBANY, NY 12207	2155	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/606,985	OSIAS, MICHAEL J.
	Examiner	Art Unit	
	Thuong (Tina) T. Nguyen	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 June 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13 and 15-25* is/are rejected.

7)☒ Claim(s) *14* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>6/26/03</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to application 10/606,985 on 6/26/03   Claims 1-25 are

pending and represent method, system and program product for providing a status of a

transaction with an application server.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

3.   Claims 21-25 are rejected under 35 U.S.C. 101 because the claimed invention of

the claim 21 is directed to non-statutory subject matter. Claims 21 recited "A program

product stored on a recordable medium: " which are adapted to perform some steps.

The computer program and the program are non-statutory as not being tangible

embodied in computer readable medium in a manner so as to be executable, and also

claimed that the computer program/programming execute in a computer or by a

computer are descriptive material per se and are not statutory because they are not

capable of causing functional change in the computer (See MPEP section 2106,

Seventh Edition, Revision No. dated February 2000, at page 2100-10 and 2100-11).

Other dependent claims, which are not specifically cited above are also rejected

because of the deficiencies of their respective parent claims.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

5.   Claims 1, 15 & 21 are rejected under 35 U.S.C. 102(e) as being anticipated by

Donker Patent No. 2004/0107267 A1. Donker teaches the invention as claimed

including system and method for determining the availability of a web page (see

abstract).

6.   As to claim 1, Donker teaches a method for providing a status of a transaction

with an application on a server, comprising:

receiving a request for a transaction on the server from a client (figure 1; page 4,

paragraph 52; Donker discloses that the method of receiving a request from a client to

access the webpage or hyperlink on the server);

invoking the application on the server to process the request (page 7, paragraph

69; Donker discloses that the method of invoking the application);

generating a first polling code having a first Uniform Resource Locator (URL) that

includes a first set of parameters, and sending the first polling code to the client (figure

3; page 4, paragraph 49 & 53; Donker discloses that the method of sending the http

ping protocol to the client and the status code indicating the availability of the web

page); and

communicating the first URL from the client to the server to request the status of

the transaction (page 1, paragraph 16; Donker discloses that the method of determining

the availability status and sending the status code to the client).

7.   As to claim 15, Donker teaches a system for providing a status of a transaction

with an application on a server, comprising:

a server agent for receiving a request for the transaction from a client (figure 1;

page 4, paragraph 52; Donker discloses that the system of receiving a request from a

client to access the webpage or hyperlink on the server), and for initiating the

transaction based on the request (page 7, paragraph 69; Donker discloses that the

system of invoking the application);

a client code generator invoked by the server agent for generating a first polling

code having a first Uniform Resource Locator (URL) that includes a first set of

parameters, and for sending the first polling code to the client (figure 3; page 4,

paragraph 49 & 53; Donker discloses that the system of sending the http ping protocol

to the client and the status code indicating the availability of the web page), wherein the

client communicates the first URL to the server agent to request the status of the

transaction (page 1, paragraph 16; Donker discloses that the system of determining the

availability status and sending the status code to the client).

8.   As to claim 21, Donker teaches a program product comprises:

agent program code configured to receive a request for the transaction from a

client (figure 1; page 4, paragraph 52; Donker discloses that the program product of

receiving a request from a client to access the webpage or hyperlink on the server), and

to initiate the transaction based on the request (page 7, paragraph 69; Donker discloses

that the program product of invoking the application);

generator program code invoked by the agent program code configured to

generate a first polling code having a first Uniform Resource Locator (URL) that

includes a first set of parameters, and to send the first polling code to the client (figure

3; page 4, paragraph 49 & 53; Donker discloses that the program product of sending the

http ping protocol to the client and the status code indicating the availability of the web

page), wherein the client communicates the first URL to the agent program code to

request the status of the transaction (page 1, paragraph 16; Donker discloses that the

program product of determining the availability status and sending the status code to

the client).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 2-13, 16-20, 22-25 are rejected under 35 U.S.C. 103(a) as being obvious

over Donker, Patent No. 2004/0107267 A1 in view of Gentry, Patent No. 6,434,651 B1 .

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Donker teaches the invention as claimed including system and method for determining the availability of a web page(see abstract).

11.   As to claim 2, Donker teaches the method as recited in claim 1. But Donker failed to teach the claim limitation wherein the first set of parameters comprises a delay time and a polling count.

However, Gentry teaches method and apparatus for suppressing interrupts in a high-speed network environment (see abstract). Gentry teaches the limitation wherein the first set of parameters comprises a delay time and a polling count (figure 4; col 16, lines 45 – col 17, lines 25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that the system would be able to determine the polling count for the system. One would be motivated to do so to determine the polling rate by interpret the counter to determine the threshold for the polling mode.

12.   As to claim 3, Donker and Gentry teach the method as recited in claim 2, wherein the communicating step comprises communicating the first URL from the client to the server after expiration of the delay time (page 3, paragraph 46; Donker discloses that the method of setting the timeout for the delay time).

13.   As to claim 4, Donker and Gentry teach the method as recited in claim 2, wherein the communicating step further comprises communicating the first URL from a browser on the client to a server agent on the server after expiration of the delay time, and wherein the server agent determines the status of the transaction based on the URL (page 1, paragraph 17; Donker discloses that the method of determined the status of the transactions).

14.   As to claim 5, Donker and Gentry teach the method as recited in claim 2, wherein

sending the second polling code to the client (page 7, table 4; Donker discloses that the method of sending the polling code include the URL, address, time or redirection, delay pointer and status code); and

communicating the second polling code to the server from the client after expiration of the delay time to request the status of the transaction (page 7, paragraph 69; Donker discloses that the method of communicating the unfound URL address after the wait time is over).

But Donker failed to teach the claim limitation wherein generating, after the communicating step, a second polling code having a second URL that identifies a second set of parameters if the transaction is incomplete and the polling count does not equal a polling count limit.

However, Gentry teaches the limitation wherein generating, after the communicating step, a second polling code having a second URL that identifies a second set of parameters if the transaction is incomplete and the polling count does not equal a polling count limit (figure 7; col 22, lines 20-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that determined if the polling counter is expire or not. One would be motivated to do so to be able to reset the counter for the polling count once reaches the limit.

15.   As to claim 6, Donker and Gentry teach the method as recited in claim 5. But Donker failed to teach the claim limitation wherein the generating step comprises incrementing the polling count of the first set of parameters by one to yield a new polling count.

However, Gentry teaches the limitation wherein the generating step comprises incrementing the polling count of the first set of parameters by one to yield a new polling count (figure 2; col 9, lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that the system would be able to check if the counter reach the final values or not. One would be motivated to do so to increase or decrease the counter accordingly.

16.   As to claim 7, Donker and Gentry teach the method as recited in claim 2, further

comprising directing the client to an exception page after the communicating step if the

polling count equals a polling count limit and the transaction is incomplete (page 6,

paragraph 62; Donker discloses that the method of redirect the page when a URL listed

on a web page no linger links to the correct website).

17.   As to claim 8, Donker and Gentry teach the method as recited in claim 2, further

comprising directing the client to a completion page after the communicating step if the

transaction is complete (page 7, table 4; Donker discloses that the method of redirect

the page to a second or third URL if can't link to a first URL).

18.   As to claim 9, Donker teaches a method for providing a status of a transaction

with an application on a server, comprising:

        receiving a HTTP request for a transaction on the server from a browser on a

client (figure 1; page 4, paragraph 52; Donker discloses that the method of receiving a

request from a client to access the webpage or hyperlink on the server);

        invoking the application on the server to process the HTTP request (page 7,

paragraph 69; Donker discloses that the method of invoking the application);

        sending the first polling code to, the browser (page 7, table 4; Donker discloses

that the method of sending the polling code include the URL, address, time or

redirection, delay pointer and status code); and

        communicating the first URL in the first polling code from the browser to a server

agent on the server after expiration of the delay time to request the status of the

transaction (page 7, paragraph 69; Donker discloses that the method of communicating

the unfound URL address after the wait time is over).

But Donker failed to teach the claim limitation wherein calling a client code generator to generate a first polling code having a first Uniform Resource Locator (URL) that includes a first set of parameters, wherein the first set of parameters comprises a delay time and a polling count.

However, Gentry teaches the limitation wherein calling a client code generator to generate a first polling code having a first Uniform Resource Locator (URL) that includes a first set of parameters, wherein the first set of parameters comprises a delay time and a polling count (figure 4; col 16, lines 45 – col 17, lines 25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that the system would be able to determine the polling count for the system. One would be motivated to do so to determine the polling rate by interpret the counter to determine the threshold for the polling mode.

19.   As to claim 10, Donker and Gentry teach the method as recited in claim 9, wherein the first URL is processed by the server agent on the server to determine the status of the transaction (page 1, paragraph 15; Donker discloses that the method of determined the status of the transaction).

20.   As to claim 11, Donker and Gentry teach the method as recited in claim 9, further comprising directing the browser to a completion page if the transaction is complete (page 7, table 4; Donker discloses that the method of redirect the page to a second or third URL if can't link to a first URL).

21.   As to claim 12, Donker and Gentry teach the method as recited in claim 9, further comprising directing the browser to an exception page if the transaction is incomplete

and the polling count equals a polling count limit (page 6, paragraph 62; Donker discloses that the method of redirect the page when a URL listed on a web page no linger links to the correct website).

22.   As to claim 13, Donker and Gentry teach the method as recited in claim 9. But Donker failed to teach the claim limitation wherein generating a second polling code having a second Uniform Resource Locator (URL) that identifies a second set of parameters and the transaction requested if the transaction is incomplete and the polling count does not equal a polling count limit, wherein the second set of parameters comprises the delay time and a new polling count.

However, Gentry teaches the limitation wherein generating a second polling code having a second Uniform Resource Locator (URL) that identifies a second set of parameters and the transaction requested if the transaction is incomplete and the polling count does not equal a polling count limit, wherein the second set of parameters comprises the delay time and a new polling count (figure 7; col 22, lines 20-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that determined if the polling counter is expire or not. One would be motivated to do so to be able to reset the counter for the polling count once reaches the limit.

23.   As to claim 16, Donker teaches the system as recited in claim 15. But Donker failed to teach the claim limitation wherein the client comprises a browser for receiving the first polling code, and for communicating the first URL to the server agent.

However, Gentry teaches the limitation wherein the client comprises a browser

for receiving the first polling code, and for communicating the first URL to the server

agent (col 16, lines 15-26).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that the system would determined the

status of the transaction. One would be motivated to do so to be able to keep track of

the polling count.

24.   As to claim 17, Donker and Gentry teach the system as recited in claim 15. But

Donker failed to teach the claim limitation wherein the first set of parameters includes a

delay time and a polling count.

However, Gentry teaches the limitation wherein the first set of parameters

includes a delay time and a polling count (figure 4; col 16, lines 45 – col 17, lines 25).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that the system would be able to

determine the polling count for the system. One would be motivated to do so to

determine the polling rate by interpret the counter to determine the threshold for the

polling mode.

25.   As to claim 18, Donker and Gentry teach the system as recited in claim 17,

wherein the client communicates the first URL to the server agent after expiration of the

delay time (page 3, paragraph 46; Donker discloses that the system of setting the

timeout for the delay time).

26.   As to claim 19, Donker and Gentry teach the system as recited in claim 17. But

Donker failed to teach the claim limitation wherein the server agent processes the first

URL to determine the status of the transaction, and invokes the client code generator to generate a second polling code having a second URL that identifies a second set of parameters if the transaction is incomplete and the polling count does not equal a polling count limit.

However, Gentry teaches the limitation wherein the server agent processes the first URL to determine the status of the transaction, and invokes the client code generator to generate a second polling code having a second URL that identifies a second set of parameters if the transaction is incomplete and the polling count does not equal a polling count limit (figure 7; col 22, lines 20-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Donker in view of Gentry so that determined if the polling counter is expire or not. One would be motivated to do so to be able to reset the counter for the polling count once reaches the limit.

27.   As to claim 20, Donker and Gentry teach the system as recited in claim 19. But Donker failed to teach the claim limitation wherein the second set of parameters comprises the delay time and a new polling count, and wherein the client code generator increments the polling count of the first set of parameters by one to yield the new polling count.

However, Gentry teaches the limitation wherein the second set of parameters comprises the delay time and a new polling count, and wherein the client code generator increments the polling count of the first set of parameters by one to yield the new polling count (figure 2; col 9, lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that the system would be able to check

if the counter reach the final values or not. One would be motivated to do so to increase

or decrease the counter accordingly.

28.   As to claim 22, Donker teaches the program product as recited in claim 21. But

Donker failed to teach the claim limitation wherein the first set of parameters includes a

delay time and a polling count.

However, Gentry teaches the limitation wherein the first set of parameters

includes a delay time and a polling count (figure 4; col 16, lines 45 – col 17, lines 25).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that the system would be able to

determine the polling count for the system. One would be motivated to do so to

determine the polling rate by interpret the counter to determine the threshold for the

polling mode.

29.   As to claim 23, Donker and Gentry teach the program product as recited in claim

22, wherein the client comprises a browser configured to receive the first polling code,

and to communicate the first URL to the agent program code after expiration of the

delay time (page 3, paragraph 46; Donker discloses that the program product of setting

the timeout for the delay time).

30.   As to claim 24, Donker and Gentry teach the program product as recited in claim

22. But Donker failed to teach the claim limitation wherein the agent program code is

further configured to process the first URL to determine the status of the transaction,

and to invoke the generator program code to generate a second polling code having a

second URL that identifies a second set of parameters if the transaction is incomplete

and the polling count does not equal a polling count limit.

However, Gentry teaches the limitation wherein the agent program code is

further configured to process the first URL to determine the status of the transaction,

and to invoke the generator program code to generate a second polling code having a

second URL that identifies a second set of parameters if the transaction is incomplete

and the polling count does not equal a polling count limit (figure 7; col 22, lines 20-55).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that determined if the polling counter is

expire or not. One would be motivated to do so to be able to reset the counter for the

polling count once reaches the limit.

31.   As to claim 25, Donker and Gentry teach the program product as recited in claim

24. But Donker failed to teach the claim limitation wherein the second set of parameters

comprises the delay time and a new polling count, and wherein the generator program

code increments the polling count of the first set of parameters by one to yield the new

polling count.

However, Gentry teaches the limitation wherein the second set of parameters

comprises the delay time and a new polling count, and wherein the generator program

code increments the polling count of the first set of parameters by one to yield the new

polling count (figure 2; col 9, lines 40-45).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Donker in view of Gentry so that the system would be able to check

if the counter reach the final values or not. One would be motivated to do so to increase

or decrease the counter accordingly.

Allowable Subject Matter

32.   Claims *claims objected* are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

33.   The following is an examiner's statement of reasons for objected the claims :

In interpreting the claims, in light of the specification and the applicant's arguments filed

on 6/26/03, the Examiner finds the claimed invention to be patentably distinct form the

prior art of record.

34.   Donker et al. (US 2004/0107267 A1), teach system and method for determined

the availability of a website wherein receiving, invoking and requesting the status of the

transaction (abstract; figure 1 & 3; page 1, paragraph 16; page 4, paragraph 52; page 7,

paragraph 69; page 4, paragraph 49 & 53).

35.   Gentry et al. (US 6,434,651 B1), teach method and apparatus for suppressing

interrupts in a high-speed , wherein generating the polling count and polling count limit

(abstract; figure 2, 4, & 7; col 9, lines 40-45).

36.   The following is an examiner's statement of reasons for objected the claims to be

allowed:

The examiner has found that the prior art of record does not appear to teach or

suggest or render obvious the claimed limitations in combination with the specific added

limitations as recited in dependent claims. The prior art of record fails to teach or suggest individually or in combination of generating a polling code having a URL that includes a set of parameters, wherein the first set of parameters comprise a delay time and a polling count and sending the polling code to the client to request the status of the transaction. Claim 15 is object to be allowed because of the combination of other limitations and the limitation listed above.
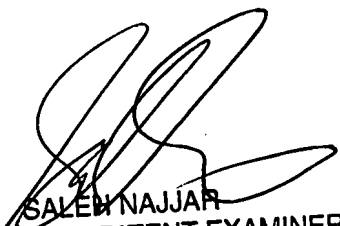
Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tina Nguyen whose telephone number is 571-272-3864, and the fax number is 571-273-3864. The examiner can normally be reached on 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Thuong (Tina) Nguyen
Patent Examiner/Art Unit 2155

SALEH NAJJAR
SUPERVISORY PATENT EXAMINER